

# EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT

Civil Law Division

FOR THE MIDDLE DISTRICT

OF PENNSYLVANIA

\* \* \* \* \*

TONY L. MUTSCHLER,

\*

Plaintiff

\*

Case No.

vs.

\*

3:16-CV-0327

C.O. CORBY,

\*

Defendant

\*

\* \* \* \* \*

DEPOSITION OF

TONY L. MUTSCHLER

January 23, 2019

ORIGINAL

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DEPOSITION

OF

TONY L. MUTSCHLER, taken on behalf of the Defendant herein, pursuant to the Rules of Civil Procedure, taken before me, the undersigned, Skyler Hope Wilson, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at the offices of PA Department of Corrections, 1920 Technology Parkway, Mechanicsburg, Pennsylvania, on Wednesday, January 23, 2019 beginning at 10:07 a.m.

A P P E A R A N C E S

TONY L. MUTSCHLER, PRO SE

CALEB C. ENERSON, ESQUIRE  
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Harrisburg, PA 17120

COUNSEL FOR DEFENDANT

I N D E X

DISCUSSION AMONG PARTIES

7

WITNESS: TONY L. MUTSCHLER

EXAMINATION

By Attorney Enerson

8 - 55

EXHIBIT PAGE

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NONE OFFERED

OBJECTION PAGE

ATTORNEY

PAGE

NONE MADE

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P R O C E E D I N G S

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TONY MUTSCHLER,  
CALLED AS A WITNESS IN THE FOLLOWING PROCEEDING, AND  
HAVING FIRST BEEN DULY SWORN, TESTIFIED AND SAID AS  
FOLLOWS:

---

ATTORNEY ENERSON: So we are here for  
the case of Tony Lee Mutschler versus Correctional  
Officer Corby docketed at 3:16-CV-0327 in the U.S.  
District Court of the Middle District of  
Pennsylvania. Present here today is myself, Caleb  
Enerson, representing Mr. Corby as well as the court  
reporter here via video from central office in  
Mechanicsburg. Mr. Mutschler is appearing via  
video.

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EXAMINATION

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BY ATTORNEY ENERSON:

Q. You're at SCI-Fayette?

A. Fayette.

Q. Okay.

A. Yes.

Q. Okay.



1                   And if I recall correctly, Mr. Mutschler  
2     --- well, first before we get started just a couple  
3     of preliminary things.

4                   If you have any trouble understanding me  
5     or hearing me, let me know and I'd be happy to  
6     repeat or rephrase any questions. If you don't know  
7     the answer to something, it's perfectly fine to say  
8     you don't know. If you don't remember the answer to  
9     something, it's perfectly fine to say you don't  
10    remember.

11                  At the end of this, the court reporter is  
12    going to, obviously, make a transcript of everything  
13    that's said today. I will send a copy of that to  
14    the Superintendent's assistant for you to review to  
15    see if there's any corrections that you - you would  
16    like to make.

17                  You will have 30 days from the date that  
18    I get notice that the transcript's completed, so  
19    I'll send it - I'll send a copy to the  
20    Superintendent's assistant as quickly as possible.  
21    I'll send you a letter so that you can make  
22    arrangements with the Superintendent's assistant to  
23    - to review the transcript.

24                  However, I can't provide you a copy of it  
25    to keep. That's something you have to arrange with

1 the - with the court reporter.

2 Now, Mr. Mutschler, you've obviously been  
3 deposed before.

4 Correct?

5 A. What's this?

6 Q. You've been - you've been deposed before?

7 A. Yes.

8 Q. Okay.

9 And aside from this case, how many other  
10 active lawsuits do you have, if you know?

11 A. I think four.

12 Q. Okay.

13 And -?

14 A. There's two - two - yeah, four. There's  
15 four others -

16 Q. Okay.

17 And -

18 A. - at the current time.

19 Q. - and are they all against the Department  
20 of Corrections or Department of Corrections  
21 employees?

22 A. Yes.

23 Q. Okay.

24 And what stage in the proceedings are  
25 those lawsuits at, if you know?

1           A.       Two of them are in Third Circuits right  
2 now for appeal.

3           Q.       Okay.

4           A.       One is moving towards jury trial.

5           Q.       Okay.

6           A.       And this one here we're at right now -

7           Q.       Okay.

8           A.       - and the other one just more or less is  
9 in the beginning stage.

10          Q.       Okay.

11                   Did you file that recently then?

12          A.       Yes.

13          Q.       Okay.

14                   And any of those other lawsuits, do they  
15 involve Mr. Corby at all?

16          A.       No.

17          Q.       Okay.

18                   And, Mr. Mutschler, are you taking any  
19 medications that would impair your ability to  
20 remember any - that would affect your memory or your  
21 ability to testify truthfully -?

22          A.       Yeah, I do. I do take medication that  
23 can affect my - it does affect my memory a little  
24 bit, -

25          Q.       Okay.

1           A.     - but I have a constant thing that I  
2 always make notes and stuff like that a lot.

3           Q.     Okay.

4           A.     So they keep - keep things locked in my  
5 memory because my medication.

6           Q.     Okay.

7                     What medication are you on?

8           A.     Well, I know I'm on Tenex. I'm on  
9 thyroid medication. I'm on medication that helps  
10 with depression since I have tendencies and - and  
11 bipolarness. I can't remember the name of it and  
12 they just took me off of like a - a schizophrenia  
13 type medication.

14          Q.     Okay.

15          A.     But they - they use it to help control my  
16 moods and stabilize myself.

17          Q.     Okay.

18                     And those medications -?

19          A.     The one medication I know the name of is  
20 Tenex.

21          Q.     Okay.

22          A.     That's the ADHD medication.

23          Q.     Okay.

24                     And does that cause memory loss or make  
25 it hard to remember things or - or as far as the

1 medication?

2 A. It just makes it hard to remember things  
3 at times. It makes my - it's like I forget things  
4 easy sometimes. I mean, it don't - it don't impair  
5 me totally, -

6 Q. Okay.

7 A. - but it does affect my memory a little  
8 bit.

9 Q. Okay.

10 A. But it shouldn't affect nothing here that  
11 I can - I mean, most of this is more or less in my  
12 long-term memory.

13 Q. Okay.

14 A. It's the short-term memory I have more  
15 problems with.

16 Q. Does it cause, for lack of a better term,  
17 blackouts or anything like that, any of your  
18 medications?

19 A. No.

20 Q. Okay.

21 And were you on those same medications  
22 during the time period involved in this lawsuit?

23 A. I was on similar medications. They're  
24 different, but similar.

25 Q. Okay.

1           A.       Because it's like - it's - I had Adderall  
2           and I was taking Depakote at the time. It's like a  
3           seizure medication.

4           Q.       Okay.

5           A.       I had grand mal seizures. They just  
6           changed brands, so I guess they don't become  
7           addicted to or become immune to it.

8           Q.       Okay, okay.

9                   And now, you've been in the custody of  
10          the Department of Corrections for - if I recall  
11          correctly, it's around 20 years.

12                   Correct?

13          A.       Yes.

14          Q.       Okay.

15                   And your original sentence, that was for,  
16          I want to say, burglary.

17                   Is that accurate?

18          A.       Yes, that's correct. Burglary.

19          Q.       Okay.

20                   And what is your max date approximately,  
21          if you - if you know?

22          A.       Two years, two months from today.

23          Q.       Two years, two months from today.

24                   Okay.

25          A.       Roughly, yeah.

1 Q. And did you - when did you most recently  
2 apply for parole?

3 A. Yesterday.

4 Q. Okay.

5 A. They granted me.

6 Q. Oh, you were granted parole?

7 A. Well, they told me I had to wait for the  
8 green sheet to come, but they told me I was good to  
9 go. I was just in hearings yesterday with the -.

10 Q. Oh, okay.

11 Well, that's good.

12 A. Yeah.

13 Q. Do you know when you're expected to - do  
14 you know an estimated release date?

15 A. Probably in February.

16 Q. February?

17 A. It'll probably be in February, yeah.

18 Q. Okay.

19 And you're at Fayette now. I believe  
20 during the time that - now - well, two things.  
21 First, your lawsuit involves events that happened at  
22 Frackville.

23 Correct?

24 A. Yes.

25 Q. Okay.

1                   And I believe at the time you filed this  
2 lawsuit, and I believe the last time you were  
3 deposed, you were at Coal Township.

4                   Is that correct?

5           A.       Yes.

6           Q.       Okay.

7                   When did you go from Frackville to Coal  
8 Township?

9           A.       I went from - one second.

10          Q.       Okay.

11          A.       Yeah, I -.

12          Q.       And if you don't have the exact date,  
13 that's fine.

14          A.       I have the exact date -

15          Q.       Oh, okay.

16          A.       - here. I'm just reading down the list  
17 of all the dates here. I came to - I went to Coal  
18 Township in 2015, December - well, that copy didn't  
19 come out too good. But it was in December of -  
20 December 28th I think - that could be like a 12,  
21 too. So I was there the beginning of - like a  
22 little part of December of 2015. They sent me to  
23 Coal Township -

24          Q.       Okay.

25          A.       - according to this, you know, is where



1 it's at. I can't read the date because I had to  
2 make a photocopy of this and the photocopy didn't  
3 come out too good there.

4 Q. Okay.

5 A. But it - it shows me here at SCI-Coal  
6 Township and this states here January 25th, 2016 was  
7 when they put me there.

8 Q. Okay.

9 A. But in December I know it was, but I  
10 think in here it says January 25th, 2016, so it had  
11 to be right in that area.

12 Q. Okay.

13 A. Right in January.

14 Q. Okay.

15 A. And then I came here December - I mean, -  
16 yeah, not December. December - I came here February  
17 of last year. February 20th, that file - I got this  
18 updated that far because that's in the other book.  
19 But I came here in February, about February 20th of  
20 2017. So I've been here about one year in this  
21 facility.

22 Q. Okay.

23 And how long approximately - and I don't  
24 need the exact dates, but how long approximately  
25 were you at SCI-Frackville?

1           A.       I was there three years and a couple  
2 months.

3           Q.       Okay.

4                   And -?

5           A.       From 12 - 11/27/2012 until they sent me  
6 to Coal Township and I've been here since January  
7 25th of 2016. But I remember because in December -  
8 like December 28th or somewhere around there it was.

9           Q.       Okay.

10                  And we -?

11          A.       I don't know why that date didn't show  
12 up.

13          Q.       Okay.

14                  And the - the incident that - the  
15 incident that gives rise to this lawsuit it looks  
16 like you put the date as July 28th of 2014.

17          A.       Yeah, at 18:51 they had marked on the  
18 incident report.

19          Q.       Okay.

20                  And on that date, July 28th of 2014,  
21 where were you housed in -?

22          A.       I was housed in the RHU.

23          Q.       Okay.

24          A.       I was on what's called B side. See if  
25 they have my housing unit here listed.

1 Q. Did you say V as in Victor?

2 A. No, B as in Bob.

3 Q. Oh, okay.

4 Thank you.

5 A. Bravo. It was the Bravo side.

6 Q. Okay.

7 And why were you in the RHU at that time?

8 A. At that time, I was in there for writing  
9 an autobiography.

10 Q. Okay.

11 Oh, -.

12 A. Because my autobiography had sexually  
13 explicit material in it.

14 Q. Okay.

15 A. And they wrote me up. They - the COs  
16 ripped the front page off of my autobiography and I  
17 - they took the childhood years that had sexually  
18 explicit material. I was writing it for my  
19 therapist to give me - give her understanding of me.

20 Q. Okay.

21 And was Mr. Corby involved in - in that  
22 misconduct at all?

23 A. No.

24 Q. Okay.

25 And approximately how long had you been

1 in the RHU as of July 28th of 2014?

2 A. I would have to say it was - I went in  
3 February of 2014 that time.

4 Q. Okay.

5 A. February 24th.

6 Q. So you had been there about five months?

7 A. That'd be about right. Five months.

8 Q. Okay.

9 And Mr. Corby, was he assigned - if you  
10 know, was he assigned specifically to the RHU or -?

11 A. No.

12 Q. No? What was his - what - what was -?

13 A. Miscellaneous.

14 Q. Miscellaneous. So -?

15 A. He was assigned miscellaneous. He took  
16 part in the search teams and stuff like that.

17 Q. Okay.

18 A. But he was mostly miscellaneous.

19 Q. Okay.

20 So would you - how often would you see  
21 Mr. Corby, if you know?

22 A. I'd probably see him about maybe ten  
23 times.

24 Q. Okay.

25 Prior to this - prior to July 28th of

1 2014, have you ever had any - any - any memorable  
2 encounters with - with Mr. Corby?

3 A. One.

4 Q. Okay.

5 And when was -

6 A. And -.

7 Q. - that?

8 A. Huh? That encounter was in the chow hall  
9 and I had went in and sat down to eat, and they  
10 bring the meals to me because of my hands and my  
11 ability to walk right. And he said I was taking too  
12 long and I said, how can I take so long? I didn't  
13 even get my meal yet. And he says, well - he just  
14 more or less said, I don't care, you're taking too  
15 long.

16 And I said, why you getting after me? I  
17 said, I ain't done anything. I mean - and - but  
18 that was influenced by his peers because he just  
19 came over there. And I guess one of the other guys  
20 pointed to me that don't like me because they're a  
21 victim of my crime.

22 Q. Okay.

23 And -?

24 A. Because I'm in for burglary. I had  
25 several burglaries and I was robbing businesses and

1 some of the relatives of my victims worked at SCI-  
2 Frackville.

3 Q. Okay.

4 But Mr. Corby was not one of those - was  
5 - is not related to any of the victims?

6 A. None of mine, no, that I'm aware of.

7 Q. Okay.

8 And -?

9 A. But I know he's closely associated with  
10 them.

11 Q. Okay.

12 And was there anything else that happened  
13 during that encounter at the chow hall?

14 A. Just that he wanted me to get out and I  
15 didn't want to get out -

16 Q. Okay.

17 A. - because I didn't eat yet. And I said,  
18 what, are you going to refuse me a meal? And then  
19 we ended up getting a Lieutenant involved and the  
20 Lieutenant, I guess, more or less shunned him away.  
21 That was the only other incident I had that he - I  
22 mean, that we had a real confrontation.

23 Q. Okay.

24 And do you remember when that happened in  
25 relation to July 28th of 2014? Was that - are we

1 talking the same month?

2 A. No, that was actually prior to - to the  
3 RHU.

4 Q. Okay.

5 A. That was like two months before the RHU  
6 encounter.

7 Q. Okay.

8 So December of 2013 maybe, somewhere  
9 around there?

10 A. Yeah, it'd be somewhere - somewhere in  
11 December. I mean, I can't say exact date because I  
12 never wrote anything - one of those things I had  
13 blew off, because as far as I'm concerned, he could  
14 have been having a bad day. But I found out it was  
15 influenced by one of the other COs.

16 Q. Okay.

17 And -?

18 A. Because they were laughing about it and  
19 making a big joke over it.

20 Q. Okay, okay.

21 So then to go to the July 28th of 2014  
22 date, you were in the RHU.

23 Correct?

24 A. Yes.

25 Q. Okay.

1                   And you indicate that your cell was  
2 searched. Were they searching all of the cells or  
3 was it just yours specifically, if you know?

4           A.       No, all of them.

5           Q.       Okay.

6           A.       They were searching every cell in the  
7 unit.

8           Q.       Was there a particular reason for that,  
9 if you know, or was it something -?

10          A.       No, they just do it every 30 days. They  
11 just do it every 30 days there.

12          Q.       Okay.

13          A.       It's just a way of harassing the inmates.

14          Q.       Okay.

15          A.       So they shake them down every 30 days and  
16 then they have search teams come down every so often  
17 to shake guys down individually.

18          Q.       Okay.

19                   And -?

20          A.       I mean, we have no contact except when  
21 COs down there, but they like to shake it down every  
22 30 days. That's - I don't know. As they say, a  
23 grind up thing.

24          Q.       Okay.

25                   And this search, did Mr. Corby



1 participate in the search of your cell?

2 A. No, he - he was at the time I guess in  
3 between cells searching. They pulled me out of my  
4 cell, and when I'm standing outside, the guards  
5 inside took my snack bag and they threw it out on  
6 the tier. I take medication at night and I have to  
7 have food with my medication. I hadn't gotten my  
8 medication yet, so I don't eat until I get my  
9 medication.

10 It's a medical snack bag so a person  
11 don't have problems with their meds. And that's why  
12 I was getting --- they threw it out on the tier and  
13 I told the Lieutenant about it. I said, LT, I said,  
14 that's my snack bag, I need it. He stated to me, he  
15 said, you should eat it. I said, no. I said, that  
16 is a medical snack bag I'm supposed to take with my  
17 medication. And he said, too bad, you don't need  
18 it.

19 And I made a remark. I said, what, are  
20 you a doctor? And then he said, you want to go to  
21 the shower? I said, I don't give a damn. I said,  
22 that's my medical snack bag. I said, I need that to  
23 take my medication, and he ordered the - the  
24 Lieutenant ordered CO Corby and another CO to take  
25 me down to the showers.

1 Q. Okay.

2 A. On the way down to the showers, I had a  
3 hard time walking and - and you've seen on video  
4 that I do have a hard time walking. And when he put  
5 me in the shower, the Sergeant kind of spun me a  
6 little bit and I lost my balance. So I had to take  
7 a step forward in order to recatch my balance.

8 That's when CO Corby grabbed me by the  
9 neck, shoved me backwards into the wall. I hit the  
10 wall hard enough to knock me out. I remember seeing  
11 like black and purple things and the next thing I  
12 know I was picking myself off the floor. My muscles  
13 were tight when I woke up and stuff. And that  
14 indicates usually a seizure I've had.

15 Some of the guys - the other inmates that  
16 witnessed it said I was having like a seizure and my  
17 body was shaking. And I said I was knocked  
18 unconscious for, I don't know, maybe - I can't say  
19 for sure. I'm saying maybe five, ten minutes. I  
20 don't know for sure, but I just know I was out -

21 Q. Okay.

22 A. - because I was picking myself off the  
23 floor and they took photographs of the side of my  
24 head and stuff that day. I can say how confused I  
25 was for some of the COs were speaking to me by name

1 and the one CO in that office stated, what happened  
2 up on the unit, you know? So I would have known  
3 that officer because I knew all my unit officers.  
4 And it happened to be one was working in the RHU  
5 that night when they had me into the medical  
6 treatment room at the RHU. I don't even know who it  
7 was. I can't even tell you the names of the nurses  
8 and I knew every single nurse by their names.

9 I don't even know who was there. That's  
10 how hard I had hit because I'm still having  
11 recollection problems because I do know a lot of the  
12 COs that are there. And that - at that time I  
13 couldn't tell you a single soul that was in that  
14 room.

15 Q. Okay.

16 A. I don't remember a single guard that was  
17 in that room. I just know they were there, I was  
18 there. I couldn't tell you who was there. Don't  
19 remember. My mind is still just a big buzz, but I  
20 do remember them taking photographs of my head from  
21 where I hit.

22 I also had bruise marks on my thigh and  
23 they took pictures of that. That was a couple days  
24 later. They took - Sergeant - Captain Park took  
25 pictures of my side and stuff all bruised up from

1 the incident.

2 Q. Okay, okay.

3 I'd like to go over some of the things  
4 you had just testified to so to follow up on some  
5 things you had said. So Mr. Corby was not searching  
6 your cell if I -?

7 A. No.

8 Q. Okay.

9 And then so the officers who tossed out  
10 your snack bag with the medications in it, that -  
11 that wasn't Mr. Corby.

12 Correct?

13 A. No. It had no medication in the bag.  
14 The medication hadn't come yet.

15 Q. Oh, oh.

16 A. That was the food so I could take the  
17 medication.

18 Q. Okay, okay.

19 So there was food in the bag so you could  
20 take the medication. Now, then you had a - you had  
21 an argument with the Lieutenant and, again, that was  
22 not Mr. Corby.

23 Correct?

24 A. No.

25 Q. Okay.

1           A.       Now, I don't remember this, but they said  
2       - this is what - I'm saying they because it was the  
3       PRC Board that brought it up in the PRC hearing.  
4       They said I called him a bitch.

5           Q.       Okay.

6           A.       I don't remember calling him that, but  
7       honestly, it'd be something like if he was pulling  
8       me hard, I might have did call him that.

9           Q.       Okay.

10          A.       I'm not going to lie, but I don't  
11       remember it. They said I did because it's on the  
12       video.

13          Q.       Okay.

14          A.       I didn't see that part of the video.

15          Q.       Okay.

16          A.       I only got to see a little piece of it,  
17       which I don't think they know I seen.

18          Q.       And when - and this would be video of you  
19       arguing -?

20          A.       That - that incident.

21          Q.       Okay.

22          A.       Because they had a handheld camera on me  
23       and they also had the unit cameras. They have  
24       cameras - they have four cameras in the RHU, and on  
25       the one side, there's one in the back facing

1 forward, one in the front facing down the hall and  
2 there's one midway facing up the hall on both ends.

3 Q. Okay.

4 A. Because the block is an I shaped, so  
5 everything's straight in a line. And that shows me  
6 walking up the center of the unit on my way to the  
7 shower, and the hand held one was behind me. A CO  
8 carried that behind me and he was filming everything  
9 as we were walking up the tier. And when they put  
10 me in the shower - when they went and - I got spun.

11 That's when Corby grabbed my throat and  
12 shoved - gave me a shove backwards by it. That also  
13 is on the camera. There's video I know exists  
14 because there has - this video also has been secured  
15 under Civil Action Case 3:142477 of unsanitary  
16 conditions that I was living in. And they - because  
17 that also plays part of that unsanitary condition,  
18 but Corby has nothing to do with that.

19 Q. Okay.

20 A. But that - that video was supposed to be  
21 secured in that case. I didn't bring that paperwork  
22 with me, but I have it in my cell stating that they  
23 secured it and they have it - it's supposed to have  
24 been sent to Coal Township. I don't know where it's  
25 at right now. Alls I know it's supposed to be in

1 property and security. That's all I know at this  
2 point.

3 Q. Okay.

4 Now, where in the -?

5 Okay.

6 So the RHU is shaped like a straight line  
7 then?

8 A. Yes.

9 Q. Okay.

10 Where approximately in the RHU is your  
11 cell? Is it near one of the ends, is it in the  
12 middle?

13 A. Midway.

14 Q. Okay.

15 A. Center, yeah.

16 Q. Okay.

17 And then where is the shower in relation  
18 to your cell?

19 A. The one they put me in is all the way at  
20 the end -

21 Q. Okay.

22 A. - up by what is known as the bubble.  
23 It's all the way at the end up front.

24 Q. Okay.

25 A. They have two sets of showers. One's

1 just over - it's just on the other side of the  
2 midway point and the other one's the other end.  
3 It's a single shower and at the very other end of  
4 the RHU.

5 Q. And -?

6 A. And that's the one they put me in.

7 Q. Okay.

8 So it's Mr. Corby and another  
9 correctional officer who were escorting you to the  
10 shower and -?

11 A. Yes.

12 Q. Okay.

13 You -?

14 A. Well, they were carrying me I should say.  
15 It wasn't escorting. It was more like carrying me  
16 forcibly.

17 Q. Okay.

18 And was that because you didn't want to  
19 go to the shower or like how -?

20 A. No, no. It was just I couldn't walk that  
21 fast.

22 Q. You had indicated -?

23 A. I - I - right now I use a cane in order  
24 to get around. You know, I have a problem with my  
25 one leg and it can be seen right in the video that I



1 have a problem with my leg, but they like forcibly,  
2 you know, kind of like picked me up under the arms  
3 and like helping me along rather fastly.

4 Q. Okay.

5 A. You know, giving me a little extra pain.  
6 The point was they were moving me fast and that's  
7 probably when I called him bitch, you know, because  
8 they were moving me fast, but -.

9 Q. Okay, okay.

10 Now, what -?

11 A. I don't remember saying that, -

12 Q. So -

13 A. - but it's something I would have done.

14 Q. - why do - why do you have trouble  
15 walking? Is - is that -?

16 A. I've been - I was hit by a Mack truck  
17 close to - well, almost 30 years now ago and it gave  
18 me nerve damage, and my hip's messed up.

19 Q. Okay.

20 A. I have nerve damage in my back and my leg  
21 goes numb on me, and I have a problem sometimes  
22 keeping my balance a little bit. And I walk with a  
23 limp, a rather severe limp because of the one leg  
24 and that's just damage from that accident. And it  
25 don't take much to make it hurt.

1           Q.       So when - I'm - I'm a little confused. I  
2 know we were talking about the argument you had with  
3 the Lieutenant and then you had said at some point  
4 that they told you that you had called someone a  
5 bitch. Was that Mr. Corby or was that the  
6 Lieutenant that they said you had called a bitch?

7           A.       No, they said I called Corby.

8           Q.       Oh, okay.

9                   And this would be during - during the  
10 time you were being -?

11          A.       During the escort going to the shower,  
12 they said I called him that. That was their  
13 justification for him grabbing me by my neck.

14          Q.       Okay.

15          A.       That's the justification they used.

16          Q.       Okay.

17                   So you're being escorted from the shower  
18 and you said the Sergeant spun you a little. Could  
19 you - could you explain that to me?

20          A.       Well, when I had to go in the shower,  
21 they had to - I - I had to turn around a little bit  
22 in order to go in the shower. And because there's a  
23 steel gate opens - when it opens - I think that one  
24 there opens outward. Mainly when I wouldn't go in,  
25 he had - in order to get me to go in, I guess what

1 they call smoothly, he gave me a little bit extra to  
2 help me.

3 Picked me up over the step there and that  
4 caused me to lose my balance. Like a little spin  
5 and I like turned slightly when I was going up into  
6 that step and that's when I - as I said, he spun me  
7 because it's about basically what it's like. He  
8 pushed a little bit extra to my - would be my left  
9 side, and when he did that, that caused me to lose  
10 my balance.

11 It wasn't nothing that he did  
12 intentionally. I do know that. It was the Sergeant  
13 that was there. I don't know who it was. I can't  
14 remember who it was. I mean, I probably do, but I  
15 can't remember who it is. But I do know for a fact  
16 that - all I'm saying for a fact is I don't believe  
17 he did that anywhere near intentionally.

18 It was just an accident, that part, but  
19 when I regained my - trying to regain my balance so  
20 I wouldn't fall, that's when CO Corby grabbed me by  
21 my throat.

22 Q. Okay.

23 A. No resistance. I was not resisting any  
24 whatsoever. I was going along with everything they  
25 were doing and I was having no issues. You know,

1 honestly I could care less if I was in a shower or  
2 standing outside my door. It made no difference to  
3 me.

4 Q. Okay.

5 A. But -

6 Q. Okay.

7 A. - I wasn't mad or anything like that,  
8 them putting me in there. They said - I said the  
9 Sergeant just gave me a little more umpf than he  
10 needed to get me up in there and that's how I got  
11 spun. Had to regain my balance. That's when he did  
12 that.

13 Q. Okay.

14 A. And I do know for a fact that in the - he  
15 had an issue with me of some type. I don't know  
16 what it was. He just didn't like me.

17 Q. Okay.

18 And -?

19 A. Because when they had me in the nurse's  
20 station, he made, you know, some kind of comment. I  
21 can't remember what it was, but he made a comment.  
22 He was outside talking to a Lieutenant. I don't  
23 know who that was. I can't remember looking in  
24 there. I just remember pieces -

25 Q. Okay.

1           A.       - at that point yet because my mind  
2 wasn't coming back to me yet. I had a concussion  
3 and I don't know - I think it has - yeah, it says in  
4 there redness, swelling and streaks slightly to the  
5 left frontal lobe. They took my, I guess, blood  
6 pressure because that's all on here. And it says  
7 redness.

8                   I think it says something here. It says  
9 that I had somewhat of a - like a concussion here.  
10 They had - also this says here on the face it says -  
11 also they had put onset of it. I said I fell and  
12 hit my head because of the assholes. I said to the  
13 nurse - this is how the nurse wrote it down. It's  
14 on a piece of medical paper I have here. It says I  
15 fell in the shower because of the assholes and hit  
16 my head.

17                   It don't state anything else. That's all  
18 she put on there, and on the - what they call  
19 abrasion - nurse evaluation piece of paper, and even  
20 in here, it says denied other injuries on here and  
21 it says - it says injury sustained in altercation  
22 with custody staff or other inmates. And it says  
23 no, but that's - that's wrong.

24                   I mean, the CO caused it, and they kind  
25 of put what they wanted on this medical report that

1       they put in my file. As I said, if you want a copy  
2       of this, I can get this - Adams to send you a copy  
3       of this medical report I got here in my hand.

4             Q.       Yes, that would be helpful. Thank you.  
5       You had indicated earlier that there was a CO  
6       holding a - a handheld camera. Was that either of  
7       the two individuals, either the Sergeant or Mr.  
8       Corby who had that camera?

9             A.       No, that's third party.

10            Q.       Okay.

11            A.       That was a third individual.

12            Q.       Okay.

13                    And were they there during the entire  
14       walk to the shower?

15            A.       Yes.

16            Q.       Okay.

17                    And -?

18            A.       They automatically - when they take  
19       someone to shower, they automatically lead them down  
20       with a camera.

21            Q.       Okay.

22                    But there's no shower -?

23            A.       They follow him feet behind him.

24            Q.       Okay.

25                    But there's no shower in the - no camera

1 in the shower?

2 A. Camera in the shower, no.

3 Q. Okay.

4 A. It's just a handheld camera and the one  
5 holding it here in both directions that would have  
6 me going down to the shower.

7 Q. Okay.

8 A. But the handheld camera is the one with  
9 the video and with voice. It has actual audio.

10 Q. Okay.

11 And was there anyone else in the shower  
12 during this - during this?

13 A. No.

14 Q. Okay.

15 And if you know, approximately how far is  
16 the shower from the nearest cell?

17 A. I'm saying 15 feet.

18 Q. Okay.

19 Do you know if there was anyone in any of  
20 the cells -

21 A. Yes.

22 Q. - close to the shower?

23 Okay.

24 Do you know who that was?

25 A. Yes. I have his name. His name is

1 Herring. I think I have his DC number, too.

2 Q. Herring like the fish?

3 A. Yeah, I believe that's how they - they  
4 call it.

5 Q. Okay.

6 A. I mean, I think that's how he pronounced  
7 it.

8 Q. Okay.

9 A. I just know him to talk to him and stuff.  
10 Let me see what I have here. I do know he's a  
11 lifer.

12 Q. Okay.

13 A. I do have his - because there was other  
14 inmates down there, too, that witnessed it as well.  
15 Yeah, Lamont Pudge, he's also a lifer, BG9048.  
16 That's his DC number.

17 All right.

18 He - he was around - I'm trying to find  
19 if I - Bob Ferret, he was in - he was out on the  
20 tier at the time. His number is BJ7456. I'll have  
21 to get you Herring's number I guess when we go  
22 through discovery if you want his number, but - but  
23 he - he was the one that had firsthand view of it  
24 because he was in cell 28, which is directly across  
25 the shower about 15 feet at most.



1 Q. Okay.

2 And -?

3 Okay.

4 And when you were - when - when Mr. Corby  
5 grabbed you and then shoved you, were you facing him  
6 or was your back to Mr. Corby?

7 A. I was facing him.

8 Q. Okay.

9 And I know you had said you had sort of  
10 been spun around by the Sergeant. Were you -?

11 A. I was also handcuffed behind my back,  
12 too. All I had on was a t-shirt, a diaper and  
13 shower shoes. That's all I had on.

14 Q. Okay.

15 Were you - were you just standing still?  
16 Were you like trying to step in or out of the shower  
17 when this happened?

18 A. It was - I was just more or - I would say  
19 I was sort of in the doorway of the shower of where  
20 the cell door closes and I was just - I had stepped  
21 forward to the one - it's like partly forward. I  
22 just was regaining my balance because my balance was  
23 off.

24 Q. Okay.

25 So you were - so you were sort of

1 stepping forward to regain your balance and then  
2 that's when you grabbed -?

3 A. That's when he grabbed me, threw me  
4 backwards.

5 Q. Okay.

6 And the distance from that entrance to  
7 the wall that you hit your head on, how far is that?

8 A. I would say approximately four and a half  
9 feet.

10 Q. Okay.

11 A. Four and a half, maybe five feet.

12 Q. Okay.

13 And - and just for reference how tall are  
14 you, Mr. Mutschler?

15 A. I am five foot, four and three quarters  
16 and they have me listed as 5'5".

17 Q. Okay.

18 So the distance from the door to the  
19 shower is - it's not even your entire length of your  
20 body?

21 A. No.

22 Q. Okay.

23 A. I mean, from the doorway to the shower  
24 because the shower is like on the left side of you  
25 and there's a wall when you straight go in and the

1 shower would be on your left.

2 Q. Okay, okay.

3 And so then you hit your head and you  
4 lost consciousness for you believe a few minutes  
5 and -?

6 A. Yes.

7 Q. Okay.

8 And then were you taken to the - to  
9 medical in the RHU after that?

10 A. To the medical room, yeah.

11 Q. Okay.

12 And -?

13 A. Medical came down and got me and took me  
14 in.

15 Q. Okay.

16 And did they take photos at that time?

17 A. Yeah, they took some photos at that time.  
18 Yes. The other photos were taken - I - I told them  
19 about the exact - when they took me back to the cell  
20 because they had strip searched me. And when they  
21 strip searched me, I felt the pain in my side when I  
22 took my shirt - my t-shirt off, and it was all red  
23 and stuff. The next day it was all bruised up on my  
24 side.

25 I had - like my left arm, there was a two

1     inch by one and three quarter inch scrape up mark  
2     bruised on my left arm. I don't know how my right  
3     arm got one, but my right arm had a - a bruise on it  
4     two inches by one quarter inches. And my right arm  
5     had two small marks like gouges in them. They were  
6     more superficial, but they hurt like I don't know  
7     what. And my right hip was bruised.

8             Q.     And these were all -?

9             A.     They got photos of them, too.

10            Q.     Okay.

11                   And you did not -?

12            A.     But that was taken like a day or so later  
13     when it became worse. Well, after they were - they  
14     were painful and the doctor wouldn't give me nothing  
15     for the pain. I can probably get you the exact day  
16     here if you want when the other photos were taken  
17     because I wrote it down.

18            Q.     Okay.

19                   And you did not have any of those marks  
20     or bruises on you prior to July 28th, before hitting  
21     your head?

22            A.     Before the incident, no, I did not.

23            Q.     Okay.

24            A.     And I believe there might be video might  
25     be showing that those marks did not exist prior and

1 to.

2 Q. Okay.

3 And what other -?

4 A. Matter of fact, I know there's a video  
5 showing the head injury wasn't there. I know that  
6 wasn't on the video because - on the video that I  
7 didn't have no head injuries before the incident.

8 Q. What other injuries did you suffer as a  
9 result of - of being shoved?

10 A. It was - I mean, I had a lot of bruising,  
11 but my hip. It was like constant on fire for weeks  
12 and the doctor wouldn't give me no pain medication.  
13 He goes, oh, you'll get better, just exercise. That  
14 was his excuse for everything, exercise.

15 Q. Okay.

16 And I believe you indicated you believe  
17 you had suffered a concussion?

18 A. Oh, I did. No doubt.

19 Q. Okay.

20 A. I think - I did the - I think one of the  
21 medical forms I got said - show - I don't have it  
22 here, but I got it in my cell that states about the  
23 - it was a concussion.

24 Q. Okay.

25 And -?

1           A.       That I suffered a mild concussion I guess  
2       is how they have it worded, but it says - but as I  
3       thought it was also on here the date marked on there  
4       that - it just says abrasions on or markings here  
5       and just some other thing. It don't say it on this  
6       one (indicating), but I think my other one I have -  
7       I have another medical report that does say about  
8       concussion.

9                   I know I had a concussion myself because  
10      when you can't remember things you should be  
11      remembering like names of individuals - and I mean,  
12      I do have a problem with my memory, but there's - my  
13      memory to that point where I wouldn't remember an  
14      individual.

15           Q.       Okay.

16                   And -?

17           A.       But that day after that injury I couldn't  
18      tell you a single officer's name hardly that was in  
19      that place. I would never knew Officer Corby's name  
20      if a CO would not have said it out loud because the  
21      officer said, Corby, why you push him? And that's  
22      how I remembered his name.

23           Q.       Okay.

24                   The officer who you heard say, Corby, why  
25      did you push him, do you know who that was?

1 A. No.

2 Q. Okay.

3 And this would have taken place while you  
4 were being examined by medical?

5 A. Yeah, they were outside of medical  
6 talking.

7 Q. Okay.

8 A. Corby and - well, actually at the time I  
9 would have never known his name if it wasn't for the  
10 CO saying it. And then all the inmates also telling  
11 me what did Corby do all that for - you know?

12 Q. Okay.

13 And did you - did you -?

14 A. I said -.

15 Q. Did you see -

16 A. Huh?

17 Q. - did you see Corby and this other  
18 officer talking or did you just hear them?

19 A. Hear them.

20 Q. Okay, okay.

21 And -?

22 A. And the other inmates also gave me his  
23 name and said it was Corby that did it because I  
24 heard the other officer say his name. And then the  
25 inmates also repeated his name to me. That's how I

1 pinned it to Officer Corby as his name and that's  
2 why in the beginning of this suit it had John Does  
3 because I could not remember none of them.

4 The hit took everything from me. I - I  
5 can't - like I know half the officers in that - in  
6 that facility. I can't remember a single one that  
7 night. I can't remember who was who.

8 Q. Okay.

9 A. I just - you know, I had pieces of  
10 things. The hit was hard.

11 Q. And did you - I know we had discussed  
12 your - your concussion. Did you have any  
13 concussion-related symptoms after hitting your head  
14 that you can remember?

15 A. Well, yeah, I had a little bit of - I  
16 guess it was related to a concussion is like I felt  
17 like I was - I wanted to throw up a lot and I just  
18 felt weasy in the stomach and a head that wouldn't  
19 stop hurting.

20 Q. Okay.

21 And did you see medical for any of those  
22 symptoms?

23 A. No, they just said it was normal. I did  
24 say something to them the next day. They just said  
25 that's normal -



1 Q. Okay.

2 A. - when you have a head injury. That -  
3 that can be normal when you have a head injury. He  
4 said that will pass. That's all they ever said.  
5 That's all. And that was just a Medline nurse.

6 Q. Okay.

7 A. That was Medline Nurse Tammy.

8 Q. Okay.

9 And were you given any medication for  
10 any -?

11 A. At the time, yeah, they gave me some  
12 ibuprofen.

13 Q. Okay.

14 And how long did you have - continue to  
15 have pain or symptoms?

16 A. For about a week I had pain. My head  
17 wouldn't stop hurting. My hip hurt for a few weeks.  
18 I mean, really it bothered me something severe. The  
19 bruising, like I said, was on my body for I'd say  
20 about - I'd say about 12 to 14 days of bruising on  
21 my body down around my hip area and stuff and my  
22 side.

23 Q. Okay.

24 And -?

25 A. But Captain Clark is the one that videoed

1 - I mean, took pictures of that.

2 Q. Okay.

3 And was Mr. Corby - was he - did he also  
4 - was he one of the individuals who took you to see  
5 medical after you hit your head?

6 A. I couldn't tell you.

7 Q. Okay.

8 But as far as the time period is  
9 concerned, it was - do you know how much time passed  
10 between you hitting your head and then you being  
11 taken to medical?

12 A. No.

13 Q. Okay.

14 But - and that's because you -?

15 A. I'm saying I figured it's probably about  
16 ten minutes or so. I mean, I don't know. I really  
17 truly don't know.

18 Q. Okay.

19 I don't believe I have any other  
20 questions at this time, so like I said, once the  
21 transcript is complete then, we - then I'll make  
22 sure you can review a copy of it. And then we'll -  
23 we'll go from there.

24 A. All right.

25 I know court did not order discovery yet

1 on - they didn't send me any of my discovery yet.

2 Q. Okay.

3 Have you -

4 A. The only thing that -.

5 Q. - have you requested -

6 A. Huh?

7 Q. - any discovery yet from my -?

8 A. Not in this case because I wasn't told  
9 that we were - I was open for discovery, -

10 Q. Okay.

11 A. - but I will be requesting, like I said,  
12 video footage, all of it.

13 Q. Okay.

14 A. That's - that's the whole case right  
15 there. The video footage will show everything.

16 Q. Okay.

17 A. That's the only thing I need for  
18 discovery, that and - I already got the medical  
19 stuff.

20 Q. Anything that you are requesting in  
21 discovery, you'll have to send - you send that  
22 directly to me since I'm representing Mr. Corby.  
23 You don't file that with the court.

24 A. Your name is Rodriguez?

25 Q. No.

1 A. You said your -?

2 Q. No, it's - here, it's Caleb Enerson,  
3 E-N-E-R-S-O-N.

4 A. Oh, okay.

5 I know.

6 All right.

7 Yeah.

8 Okay.

9 I had - I got your name and everything  
10 then.

11 Q. Yeah. And -?

12 A. Yeah, I got that up there.

13 Q. Okay.

14 And I'm trying to think if there's -  
15 there's anything else. I don't - oh, once you are  
16 paroled and have a new address, obviously, just make  
17 sure you update that with - with the court. You can  
18 send them a letter, because if you don't send them  
19 an update of your -

20 A. Yeah.

21 Q. - address, then -.

22 A. Oh, I'll keep everybody updated.

23 Q. Okay.

24 Yeah.

25 A. I'll make sure everybody is updated.

1           Q.       Yeah, so you can just file that on the -  
2       you can write a letter to the court once you know  
3       your new address, and then that way I'll know to  
4       send anything to that particular address so -.

5                    Okay.

6                    I - I believe that's any -.

7           A.       Oh, you do know when you send mail here,  
8       you should be sending it straight to the - right  
9       here to the facility and not in Florida. Because  
10      your mail is considered legal because you're an  
11      attorney. They say you guys are supposed to get an  
12      attorney number, but according to the DOC policy,  
13      you guys are already listed as an - I mean, as a  
14      District Attorney.

15                   You know, your mail should be coming here  
16      and you should be checking with the DOC if you need  
17      to have a number to write on your paperwork because  
18      your mail should come straight here, not to Florida.

19           Q.       Okay.

20           A.       So if it goes to Florida, it's getting  
21      photocopied by who knows what. I've had my mail  
22      already come down there. It takes 14 to 18 days to  
23      get mail from there and the mail - sometimes I have  
24      had page one and six on the same page front and  
25      back. They copy everything front and back, so I'm

1 not receiving legal mail as required.

2 Q. Okay.

3 A. So you might want to make sure you call  
4 the DOC or have a number placed on your name at  
5 least. I mean, maybe you guys are supposed to be  
6 exempt from that, but it should be sent here to the  
7 facility, right here to 48 Overlook Drive.

8 Q. Okay.

9 Well, -.

10 A. That was an issue with the DOC sending my  
11 legal mail - I just had a date in my court case. I  
12 hadn't gotten my paperwork. I had 14 days to  
13 respond. I received it on the 14th day.

14 Q. Okay.

15 A. I mean, I don't know how to respond in 14  
16 days if I'm receiving it 14 days because it went to  
17 Florida.

18 Q. Well, if you're getting -.

19 A. And -.

20 Q. If you're getting released in February,  
21 hopefully we - we don't even have to worry about  
22 that.

23 A. Oh, hopefully we won't need to, but I'm  
24 saying if you do send information here, send it  
25 straight to the facility. Don't send it to Florida

1 because your mail is technically legal and I'd say  
2 check with the DOC about that because you have to  
3 have a number. You should because according - you  
4 are a government official.

5 Q. Okay.

6 A. And you are not supposed to require in  
7 the courts, but anyway, you can call a number and  
8 it's assigned to you. And when you mail your legal  
9 mail, it goes straight to the facility. It don't go  
10 to Florida. So if it goes down there, it can be 14  
11 days before I even receive it or longer. I've had  
12 mail already that went down there that took almost  
13 19 days to get.

14 That's - you know, that will ruin my  
15 timeline and processing. I'm in the current process  
16 of writing everybody and letting them know about  
17 this. I mean, the lawyers and stuff that I'm  
18 communicating with.

19 Q. Okay.

20 A. So - and I just want to make you aware  
21 that it should be sent right here.

22 Q. Okay.

23 I appreciate that. I - I think that's  
24 everything then for today and thank you very much  
25 for your time.

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A.       Yep.   Thank you.

ATTORNEY ENERSON:   Okay.

Thank you.

\* \* \* \* \*

DEPOSITION CONCLUDED AT 11:01 A.M.

\* \* \* \* \*



1 COMMONWEALTH OF PENNSYLVANIA )

2 COUNTY OF DAUPHIN )

3 CERTIFICATE

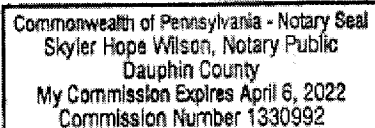
4 I, Skyler Hope Wilson, a Notary Public in and  
5 for the Commonwealth of Pennsylvania, do hereby  
6 certify:

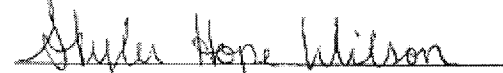
7 That the foregoing proceedings, deposition of  
8 Tony L. Mutschler, was reported by me on 01-23-19 and  
9 that I, Skyler Hope Wilson, read this transcript, and  
10 that I attest that this transcript is a true and  
11 accurate record of the proceeding.

12 That the witness was first duly sworn to  
13 testify to the truth, the whole truth, and nothing but  
14 the truth and that the foregoing deposition was taken  
15 at the time and place stated herein.

16 I further certify that I am not a relative,  
17 employee or attorney of any of the parties, nor a  
18 relative or employee of counsel, and that I am in no  
19 way interested directly or indirectly in this action.

20 Dated the 19th day of February, 2019.

21   
22  
23



Skyler Hope Wilson,

Court Reporter

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